IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

R.C. Rev..No. 443 of 2006(D)

RCA.20/2005 of D.C. & SESSIONS COURT,KOLLAM
RCP.45/2002 of PRL. RENT CONTROL COURT, KOLLAM

.....

PETITIONER/APPELLANT/RESPONDENT

1. SAHITHYA PRAVARTHAKA CO-OPERATIVE SOCIETY LTD. NO. 2458, KOTTAYAM, REP. BY ITS SECRETARY.

2. NATIONAL BOOK STALL, KALPANA BUILDINGS, PAIKKADA ROAD, KOLLAM, REP. BY ITS MANAGER.

BY ADV. SRI.P.V.SURENDRANATH

RESPONDENTS: PETITIONER

1. SATHEESH NAIR, S/O.GOPINATHAN NAIR, THE MANOR, KOCHUPILAMOODU, KOLLAM.

2. SURESH CHANDRAN NAIR, S/O.GOPINATHAN NAIR, NALANDA, KOCHUPILAMOODU, KOLLAM.

BY /

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 22/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

==========

R.C.R. No. 443 OF 2006

==========

Dated this the 22nd day of January 2007

ORDER

Udayabhanu,J

The Revision Petitioner/tenant is a Co-Operative society under orders of eviction as per concurrent orders challenged herein. The petitioner/landlord has sought for vacant possession of the premises as they wanted to shift their proprietary and partnership business in food products to the petition schedule premises i.e., to the ground and first floor and use the second floor as a conference room. PW1, the manager of the landlord, has testified with respect to the needs set up. It is the case of the petitioners that they are running their business right now in tenanted premises and they wanted to shift business to the petition schedule premises. The contention of the revision petitioner/tenant is that the petitioner can use the second floor of the building which is in their possession. It is the contention of the petitioners/landlords that the entire building is required for their business purposes. We find that the review petitioner is not entitled to dictate the landlord to shift their business to the 2nd floor of their own building without disturbing the tenant who is in possession of the

ground floor. The petitioners have justified as to their need for the ground floor, first floor and the second floor. Rent Control Court as well as Appellate Authority has found that the bonafide need set up is genuine, and rightly so. We find that, in view of the reasons explained in the judgments of the courts below, there is no reason to interfere and RP is liable to be dismissed at the threshold.

2. All the same considering the plea of the counsel for the petitioner that sufficient time should be provided to vacate the premises, the revision petitioners are granted 4 months time from today onwards to surrender vacant possession on condition that they shall remit the entire arrears of rent due if any and continue to remit the rent due in future and file an affidavit before the execution court undertaking that the premises shall be vacated on or before 22.05.2007.

In the result, the R.C.R. is dismissed in limine

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

RV